REMARKS

This paper is filed in response to the Office Action mailed March 16, 2009 (hereinafter "Office Action") in connection with the above-referenced patent application. By virtue of this response, Claims 1, 17, and 31 are amended for purposes of clarity. Claims 1-12, 14-28, and 30-42 remain pending.

Referring now to the Office Action, Claims 1-4, 6, 7, 10-12, 14-16, 17-20, 22, 23, 26-28, 30-37, 41 and 42 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,665,702 to Zisapel et al. (hereinafter Zisapel et al.) in view of U.S. Patent No. 7,219,162 to Donker et al. (hereinafter Donker et al.). Claims 5, 8, 9, 21, 24, 25, 38 and 39 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Zisapel et al. in view of Donker et al. and further in view of U.S. Patent No. 6,671,285 to Kirkby et al. (hereinafter Kirkby et al.). Claim 40 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Zisapel et al. in view of Donker et al. and further in view of Official Notice. In addition, Claims 31-42 were rejected under 35 U.S.C. § 101.

Applicants wish to thank the Examiner for his time during the interview conducted on June 4, 2009. During the interview, applicants' representative noted that none of the cited art, alone or in combination, taught, disclosed, or suggested a number of recitations in the claims. Additionally, applicants' representative discussed potential amendments to clarify the independent claims.

In view of the following remarks, applicants request reconsideration and allowance of pending Claims 1-12, 14-28, and 30-42.

A. Claims 1-4, 6, 7, 10-12, 14-16, 17-20, 22, 23, 26-28, 30-37, 41 and 42 Are Not Obvious Over Zisapel et al. in View of Donker et al.

As indicated above, Claims 1-4, 6, 7, 10-12, 14-16, 17-20, 22, 23, 26-28, 30-37, 41 and 42 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Zisapel et al. in view of Donker et al. Applicants respectfully traverse this rejection.

Independent Claims 1, 17, and 31, as amended for purposes of clarity, recite:

> 1. A process implemented across a network for providing a link to a preferred network server corresponding to a preferred mirror instance within a

plurality of network servers corresponding to a plurality of mirror instances of a content store, comprising the steps of:

providing a server application at a first web server, and a client application at a client terminal, the first web server comprising a server other than a server corresponding to the content store and the network servers corresponding to the mirror instances, wherein the client terminal is connected to the first web server by a first connection, wherein the client terminal is connected to the network through the first web server, and wherein the server application and the client application communicate to provide localization decisions without user interaction, and to provide links to localized content from the server application to the client application;

determining localization information for each mirrored instance of the content store, wherein the localization information comprises the number of hops and latency from each mirrored instance of the content store to any of the first web server and the client terminal;

storing the determined localization information in a localization database;

receiving a request at the first web server over the first connection from a user at the client terminal, the request corresponding to mirrored content;

querying the localization database and applying a set of rules to the stored localization information through the server application at the first web server to determine a preferred mirror instance for the client terminal, the rules comprising a function of the stored hop information and the stored latency information between each of the mirror instances and the client terminal;

dynamically generating a web page responsive to the request, the web page including a selectable localized link to the determined preferred mirror instance through the server application at the first web server, wherein the selectable localized link has yet to be selected by the user; and

transmitting the dynamically generated web page from the first web server to the client terminal.

17. A process implemented across a network for providing a link to a preferred network server corresponding to a preferred mirror instance within a plurality of network servers corresponding to a plurality of mirror instances of a content store, comprising the steps of:

providing a server application at a first web server, and a client application at a client terminal having a unique address, the first web server comprising a server other than a server corresponding to the content store and the network servers corresponding to the mirror instances, wherein the client terminal is connected to the first web server by a first connection, wherein the client terminal is connected to the network through the first web server, and wherein the server application and the client application communicate to provide localization decisions without client user interaction, and to provide links to localized content from the server application to the client application;

determining localization information for each mirrored instance of the content store, wherein the localization information comprises the number of hops

and latency from each mirrored instance of the content store to any of the first web server and the client terminal;

storing the determined localization information in a localization database;

receiving a request at the first web server over the first connection from the client terminal, the request corresponding to a link to the content store;

querying the localization database and applying a set of rules to the stored localization information through the server application at the first web server to determine a preferred mirror instance for the client terminal, the rules comprising a function of the stored hop information and the stored latency information between each of the mirror instances and the unique address;

dynamically generating a web page responsive to the request, the web page including a selectable localized link to the determined preferred mirror instance through the server application at the first web server, wherein the selectable localized link has yet to be selected by the user; and

transmitting the dynamically generated web page from the first web server to the client terminal.

31. A proximity resource allocation system implemented across a network for providing a link to a preferred network server within a plurality of network servers corresponding to a plurality of mirror instances of a content store from which a user terminal having a unique address is connectable to the preferred network server, comprising:

a server application at a first web server that communicates with a client application at the user terminal, the first web server comprising a server other than a server corresponding to the content store and the network servers corresponding to the mirror instances, wherein the user terminal is connected to the first web server by a first connection, wherein the user terminal is connected to the network through the first web server, the server application to provide localization decisions without user interaction, and to provide links to localized content from the server application to the client application; and

a localization database implemented on memory for storing localization information for each mirror of the content store, wherein the localization information comprises the number of hops and latency from each of the plurality mirrors to any of the first web server and the user terminal;

the server application for receiving a request sent to the first web server over the first connection from the user terminal, the request corresponding to a link to the content store, for querying the localization database and applying a set of rules to the stored localization information through the server application at the first web server to determine a preferred mirror for the user terminal without user interaction, the rules comprising a function of the stored hop information and the stored latency information between each of the mirrors and the unique address, for dynamically generating, responsive to the request to the content store, a web page that includes a selectable localized link to the determined preferred mirror through the server application at the first web server, wherein the selectable localized link

has yet to be selected by the user, and for transmitting the dynamically generated web page from the first web server to the user terminal.

Applicants respectfully submit that neither Zisapel et al. nor Donker et al., alone or in combination, teach or suggest all of the limitations in each of independent Claims 1, 17, and 31. For example, as discussed during the interview, neither Zisapel et al. nor Donker et al. nor any other cited art, alone or in combination, teach or suggest the following features of Claims 1 and 17 in the context of the other limitations of each respective claim: "dynamically generating a web page responsive to the request, the web page including a selectable localized link to the determined preferred mirror instance through the server application at the first web server, wherein the selectable localized link has yet to be selected by the user; and transmitting the dynamically generated web page from the first web server to the client terminal." In addition, neither Zisapel et al. nor Donker et al. nor any other cited art, alone or in combination, teach or suggest the following features of Claim 31 in the context of the other limitations of the claim: "the server application . . . for dynamically generating, responsive to the request to the content store, a web page that includes a selectable localized link to the determined preferred mirror through the server application at the first web server, wherein the selectable localized link has yet to be selected by the user, and for transmitting the dynamically generated web page from the first web server to the user terminal."

Donker et al., in particular, discloses at Col. 8, ll. 10-19 that "once the user initiates the invention by linking to a web page and selecting a desired, original hyperlink on the accessed web page (step 9), the user is automatically provided with a table of alternative web pages if it is determined via the invention that this originally selected web page is not available or performing worse than those found alternative pages. If no alternative web pages are found, the user will not be presented with alternative web pages to the originally selected web page." Donker et al. further discloses at Col. 8, ll. 21-24 that "[i]n presenting the found alternative web pages to the user, the invention first checks the availability and t he performance of the desired, originally selected web page in step 9 using a ping protocol (step100)." Instead of displaying the alternative web pages to the user, Donker et al. also discloses that the invention may alternatively "rank each of the stored alternative web pages by performance and then dynamically select and display to the user the best performing alternative web page." Col. 3, ll. 7-10. The recitations in

each of independent Claims 1, 17, and 31, as set forth above, are distinct from and non-obvious over the teachings of Donker et al. in particular, as well as the other cited references.

For at least the foregoing reasons, applicants submit that Claims 1, 17, and 31 are patentable and respectfully request withdrawal of the rejection.

Rejected Claims 2-4, 6-12, 14-16, 18-20, 22-23, 26-28, 30, 32-37, 40 and 42 are dependent on one of independent Claims 1, 17, or 31 discussed above. Accordingly, applicants submit that Claims 2-4, 6-12, 14-16, 18-20, 22-23, 26-28, 30, 32-37, 40 and 42 are allowable at least by virtue of this dependency, as well as by virtue of the other limitations set forth therein. Accordingly, applicants submit that Claims 2-4, 6-12, 14-16, 18-20, 22-23, 26-28, 30, 32-37, 40 and 42 are patentable over the cited prior art and respectfully request withdrawal of the rejection of these claims as well.

B. Claims 5, 8, 9, 21, 24, 25, 38 and 39 Are Not Obvious Over Zisapel et al. in View of Donker et al. and in further in view of Kirkby et al.

As indicated above, Claims 5, 8, 9, 21, 24, 25, 38 and 39 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Zisapel et al. in view of Donker et al. and further in view of Kirkby et al. Applicants respectfully traverse these rejections.

Rejected Claims 5, 8, 9, 21, 24, 25, 38 and 39 are dependent on one of independent Claims 1, 17, or 31 discussed above. Accordingly, applicants submit that Claims 5, 8, 9, 21, 24, 25, 38 and 39 are allowable at least by virtue of this dependency, as well as by virtue of the other limitations set forth therein. Accordingly, applicants submit that Claims 5, 8, 9, 21, 24, 25, 38 and 39 are patentable over the cited prior art and respectfully request withdrawal of the rejection of these claims as well.

C. Claims 31-42 Are Directed to Patentable Subject Matter Under 35 U.S.C. § 101

As indicated above, Claims 31-42 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicants have made clarifying amendments to independent Claim 31 and respectfully submit that Claim 31 is directed to statutory subject matter. Accordingly, applicants respectfully request withdrawal of this rejection of Claim 31, as well as each of Claims 32-42 which are dependent from Claim 31.

CONCLUSION

In view of the foregoing amendments and remarks, applicants submit that the application is now in condition for allowance.

By focusing on specific claims and claim limitations in the discussion above, applicants do not imply that other claim limitations in presently pending claims or in previously pending claims are disclosed or suggested by the references. In addition, any characterizations of claims and/or cited art are being made to facilitate expeditious prosecution of this application. Applicants reserve the right to pursue at a later date any other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by another prosecution. Accordingly, reviewers of this or any child or related prosecution history shall not reasonably infer that applicants have made any disclaimers or disavowals of any subject matter supported by the present disclosure.

If any issues remain which can potentially be resolved by telephone, the Examiner is invited to call the undersigned attorney of record at her direct dial number listed below.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

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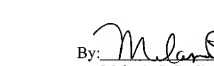
By: 

Melanie J. Seelig
Registration No. 44,328
Attorney of Record
Customer No. 20995
(206) 405-2000

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